

DIRECT SHIPMENTS AND INTERNET SALES OF ALCOHOLIC BEVERAGES

Direct Shipments

This activity involves shipments of alcoholic beverages made directly to California consumers that originate from points outside of this state. "Wine (or beer)-of-the-month club" is a common format used by companies engaged in direct shipping.

Direct Shipments are regulated by California's importation and tied-house laws.

California's regulatory scheme for the importation, sale and distribution of alcoholic beverages is based on a legally structured "three-tier system" (i.e., segregated distribution from licensed producer/importer to wholesaler to retailer). The laws which implement this distribution structure permit alcoholic beverages to be brought into California only when the beverages are consigned and delivered to an importer licensed by this Department.

Direct interstate and international shipments of alcoholic beverages to consumers in this state are prohibited. A narrow exception in Section 23661.2 of the Alcoholic Beverage Control Act authorizes limited direct shipments of wine under specified conditions. It allows unlicensed adults in this state to receive shipments of small quantities of wine for personal use from another state which allows adult residents of that state to receive comparable shipments of wine from California. The permitted quantities vary by state¹ from one case (9 liters) per year to two (2) cases per month. There is, however, no similar exception for direct shipments of beer or distilled spirits; consequently, such shipments are prohibited.

Internet Sales and Marketing

The use of the Internet as a sales and marketing tool is becoming widespread in the alcoholic beverage industry. In the retail sector, Internet-based companies with little or no physical presence in California are seeking to offer alcoholic beverages for sale to consumers in this state.

An Internet-based retail business cannot legally sell alcoholic beverages in California unless it obtains a Department-issued license. An inability to establish and maintain a sufficient physical presence in this state is problematic from a licensing standpoint. In order to obtain the required retail license, an Internet business would need to operate in conjunction with a "brick and mortar" retail store pursuant to Rule 27 CCR. (All retail licensees must comply with Rule 27, except for wholesalers holding an off-sale beer and wine license at the wholesale premises.)

Another potentially problematic area for Internet-based retailers is inventory. Under this state's distribution system, retail licensees are required to purchase their stock of alcoholic beverages from in-state sources, i.e., licensed wholesalers, winegrowers or beer manufacturers. And, under Rule 27, a retailer's alcoholic beverage inventory must be "displayed and available for convenient inspection and purchase by the general public."

Under the ABC Act, only California-licensed retailers, winegrowers and beer manufacturers are authorized to make direct sales of their packaged alcoholic beverages to adult consumers in this state. The Department has determined as a matter of policy that it is permissible for those licensees to solicit and accept purchase orders for their alcoholic beverage products from consumers by direct mail, telephone, or on-line computer. Regardless of how orders for alcoholic beverages are processed and fulfilled, licensees must comply with all applicable laws and rules, which include storage, delivery and recordkeeping requirements. (Sections 23357, 23358, 23393 and 23394 B&P)

¹Information concerning direct shipment states can be obtained from the Business Practices Unit (916-263-6900). Also, the Wine Institute, a trade association of California wineries, maintains a state-by-state analysis of laws regarding direct interstate wine shipments of its website, which can be accessed at www.wineinstitute.org.